

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham and Robert Norman Rice
Serial No. : 10/759,841 Examiner : Whiteman, Brian A.
Filed : January 15, 2004 Art Unit : 1635
Conf. No. : 8757
For : SYNTHETIC GENES AND GENETIC CONSTRUCTS

30 Rockefeller Plaza
20th Floor
New York, New York 10112
September 1, 2011

By EFS

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

COMMUNICATION SUBMITTING CORRECTED FORMS PTO-1449

This Communication is submitted after the mailing of an August 25, 2011 Notice of Allowance and before the payment of the issue fee in connection with the above-identified application. Accordingly, this Communication is being timely filed.

In the August 25, 2011 Notice of Allowance, the Examiner stated that the U.S. Applications, Gilbert (cite no. 123), Hergersberg (cite no. 131), and Van Blokland (cite no. 197) disclosed in the Information Disclosure Statement (IDS) having an Image File Wrapper (IFW) date of June 27, 2008, and the table and Annex B-D filed in EP 99 91 0 039.9 disclosed in the IDS having an IFW date of October 25, 2007 fail to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP §609 because U.S. applications do not have a publication date, instead they have a filing date. The Examiner further stated that Gilbert, Hergersberg and Van Blokland are missing page numbers, while the table and Annex B-D on page 8 of

Applicants : Michael Wayne Graham and Robert Norman Rice
Serial No. : 10/759,841
Filed : January 15, 2004
Page 2 of 4 of Communication Submitting Corrected Forms PTO 1449

the IDS having an IFW date of October 25, 2007 are missing a publication date and page numbers.

The Examiner acknowledged that he considered the U.S. applications, Gilbert, Hergerberg, and Van Blokland on December 8, 2008 and mailed an Examiner initialed Form PTO-1449 with a January 9, 2009 Final Office Action, but stated that the documents should not have been considered because they are missing page numbers or are not U.S. Patent documents.

In response, Applicants attach as **Exhibit 1** corrected Forms PTO-1449 (Substitute) which address the issues identified by the Examiner.

U.S. Serial Nos. 09/100,813 (cite no. 14 of the IDS having an IFW date of June 27, 2008) and 09/646,807 (cite no. 15 of the IDS having an IFW date of June 27, 2008) are parent applications of currently pending U.S. Serial No. 11/218,999 which was published on January 19, 2006 as U.S. Patent Application No. 2006-0014715. U.S. Patent Application No. 2006-0014715 was already made of record in the subject application.

U.S. Serial Nos. 09/056,767 (cite no. 20 of IDS having an IFW date of June 27, 2008) and 09/127,735 (cite no. 21 of the IDS having an IFW date of June 27, 2008) do not have corresponding U.S. Patent Application Publications.

Item 1 listed on **Exhibit 1** is the U.S. Patent Application Publication which corresponds to U.S. Serial No. 11/841,737 (cite no. 26 of the IDS having an IFW date of June 27, 2008), which is a continuation of U.S. Serial No. 09/287,632 (cite no. 22 of IDS having an IFW date of June 27, 2008).

Applicants : Michael Wayne Graham and Robert Norman Rice
Serial No. : 10/759,841
Filed : January 15, 2004
Page 3 of 4 of Communication Submitting Corrected Forms PTO 1449

U.S. Provisional Application No. 60/068,562 (cite no. 27B of the IDS having an IFW date of June 27, 2008) corresponds to U.S. Patent No. 5,506,559 which has already been made of record in the subject application.

U.S. Serial No. 10/571,384 (cite no. 51 of the IDS having an IFW date of June 27, 2008) was published on February 21, 2008 as U.S. Patent Application Publication No. 2008-0044906, which is already of record in the subject application.

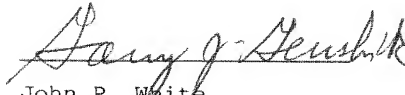
Items 2-7 listed on **Exhibit 1** are corrected citations for non-patent literature documents alleged to be incomplete by the Examiner in the August 25, 2011 Notice of Allowance.

The Examiner is respectfully requested to make of record each item listed on the corrected Forms PTO-1449 (Substitute) by initialing and dating the attached corrected Forms PTO-1449 (Substitute), and returning a copy of the initialed and dated forms to Applicants' undersigned attorney.

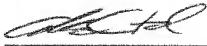
Applicants : Michael Wayne Graham and Robert Norman Rice
Serial No. : 10/759,841
Filed : January 15, 2004
Page 4 of 4 of Communication Submitting Corrected Forms PTO 1449

No fee is deemed necessary in connection with the filing of this Communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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Certificate of Transmission	
I hereby certify that this correspondence is being transmitted via the Electronic Filing System (EFS) to the U.S. Patent and Trademark Office on September 1, 2011.	
 Adam C. Krol Reg. No. 64,351	<u>9/1/11</u> Date